

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY)	MDL No. 1456
AVERAGE WHOLESALE PRICE)	Master File No. 1:01-CV-12257-PBS
LITIGATION)	Sub-Category Case No. 1:08-CV-11200
)		
THIS DOCUMENT RELATES TO:)	
<i>United States ex rel. Linnette Sun and</i>)	
<i>Greg Hamilton, Relators</i>)	Judge Patti B. Saris
v.)	
<i>Baxter Healthcare Corporation</i>)	
)		

**BAXTER HEALTHCARE CORPORATION'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure and Rule 56.1 of the Local Rules for the United States District Court for the District of Massachusetts, defendant Baxter Healthcare Corporation (“Baxter”), by and through its attorneys, respectfully moves this Court to grant an Order for Partial Summary Judgment in favor of the Defendant as to the Baxter therapies Advate and Recombinate in the sole remaining FCA count¹ in Relators’ Second Amended Complaint, filed August 13, 2010, Subcategory No. 1:08-cv-11200, Subcategory Doc. No. 102, for the reasons stated in the attached Memorandum in Support.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Baxter believes oral argument may assist the court in resolving these issues and therefore requests a hearing at such time as the court determines.

A proposed order is attached for the Court’s convenience.

¹ If this motion is granted, the only surviving counts (Counts IV, V, VI, XXII, and XXIII) will relate to Sun’s retaliation and employment discrimination claims.

Respectfully submitted,

Dated: October 19, 2011

/s/ Shamir Patel
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CERTIFICATION PURSUANT TO LOCAL RULE 7.1(a)(2)

I certify that the moving party has communicated with counsel for Relators in an effort to resolve the dispute referred to in this Motion, and that the parties have not been able to reach agreement with respect thereto.

/s/ Shamir Patel

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CERTIFICATE OF SERVICE

I hereby certify that I, Shamir Patel, an attorney, electronically filed the foregoing BAXTER HEALTHCARE CORPORATION'S MOTION FOR PARTIAL SUMMARY JUDGMENT with the Clerk of the Court for the District of Massachusetts using the Court's CM/ECF system on October 19, 2011. I also caused a true and correct copy of the foregoing document to be delivered to all counsel of record by electronic service via LexisNexis File & Serve, for posting and notification to all parties.

/s/ Shamir Patel

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